

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 457 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LAKSHMANJI C THAKORE

Versus

LAKSHMANBHAI SOMABHAI

Appearance:

MR SB VAKIL for Petitioners

MR HIREN K SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/08/97

ORAL JUDGEMENT

This appeal has been called out for hearing twice. However, none of the learned advocates are present. Since the appeal is pending since 1987, the Court has thought it fit not to wait for the advocates to come and has proceeded with the matter.

This appeal is directed against order dated

September 19, 1987 passed by the learned Civil Judge (S.D.), Ahmedabad (Rural) at Narol, below interim injunction application in Regular Civil Suit No. 75 of 1987.

2. The suit is filed for specific performance of the suit agreement. By the order under appeal, the trial court has allowed the interim injunction application of the plaintiffs and the defendants are restrained from entering into any construction on the suit land and the defendants are also restrained from making any transaction in any manner and from creating any charge on the suit land and also restrained from disturbing the possession of the plaintiffs over the suit land. The trial court also granted the application filed by the defendants in the suit restraining the plaintiffs from putting up any further construction on the suit land till disposal of the suit.

3. In view of the fact that the suit is pending since 1987, and that this Court, while admitting the appeal, had not granted any interim or ad-interim stay against operation of the injunction granted by the trial Court and the interim injunction order passed by the trial court is operating since May 1, 1987, it would be just and proper to direct the trial court to hear and decide the suit as expeditiously as possible and latest by March 31, 1998, and to continue the interim injunction granted by the trial court till disposal of the suit or till March 31, 1998 whichever is earlier.

5. In view of the above, the following directions are given:-

(i) The trial court shall hear and decide the suit in accordance with law and without being influenced by the fact that this Court has continued the interim injunction granted earlier. The order under appeal is not disturbed nor has the Court has gone into the merits of the dispute only because the interim injunction is operating since 1987 and the suit is ordered to be decided by March 31, 1998.

(ii) The interim injunction orders passed by the trial court shall continue to operate till disposal of the suit or till March 31, 1998, whichever is earlier.

6. In terms of the aforesaid directions, the appeals are disposed of with no order as to costs.

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